

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE COMMISSIONER OF LABOR AND INDUSTRY

In the Matter of Mata Building  
Development, Inc.

**FINDINGS OF FACT,  
CONCLUSIONS  
AND RECOMMENDATION**

The above-entitled matter came on before Administrative Law Judge Kathleen D. Sheehy for a hearing on July 27, 2006, at 9:30 a.m., at the Office of Administrative Hearings, Suite 1700, 100 Washington Avenue South, Minneapolis, Minnesota 55401. The OAH record closed at the conclusion of the hearing.

Michael J. Tostengard, Assistant Attorney General, Suite 1200, 445 Minnesota Street, St. Paul, MN 55101-2130, appeared on behalf of the Department of Labor and Industry (the Department).

David Mata, Mata Building Development, Inc. (Respondent), 23840 Prairie Court, Belle Plaine, MN 56011, appeared on his own behalf without counsel.

**STATEMENT OF ISSUES**

Did the Respondent demonstrate incompetence, untrustworthiness, or financial irresponsibility, in violation of Minn. Stat. § 326.91, subd. 1(6), by failing to satisfy a judgment in the amount of \$5,596.73?

The Administrative Law Judge concludes the Respondent has demonstrated financial irresponsibility by failing to satisfy the judgment.

Based upon all of the files, records and proceedings herein, the Administrative Law Judge makes the following:

**FINDINGS OF FACT**

1. The Respondent is currently licensed as a residential building contractor, License No. 20045679. David Mata is the qualifying person for the Respondent.

2. On April 18, 2005, a judgment in favor of Appliance Service & Sales Center, Inc., in the amount of \$5,596.73, was entered against David Mata in Scott County.<sup>[1]</sup>

3. The Respondent has not satisfied the judgment.

4. On April 13, 2006, the Respondent entered into an agreement with Appliance Sales & Service to pay the amount of the judgment in three equal installments between May 15, 2006 and July 15, 2006. The agreement further provides that if payment cannot be made on these dates, payment in full will be made no later than October 15, 2006.<sup>[2]</sup>

5. The Respondent did not make any of the three installment payments specified between May and July 2006 in the above agreement.<sup>[3]</sup>

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Administrative Law Judge and the Commissioner are authorized to consider the charges against Respondent under Minn. Stat. §§ 14.50, 326.91, and 326.92, subd. 3.

2. Respondent received due, proper and timely notice of the charges against it and of the time and place of the hearing. This matter is, therefore, properly before the Commissioner and the Administrative Law Judge.

3. The Department has complied with all relevant procedural legal requirements.

4. The Respondent demonstrated financial irresponsibility, in violation of Minn. Stat. § 326.92, subd. 1(6), by failing to satisfy the judgment.

5. Disciplinary action against the Respondent is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS HEREBY RECOMMENDED: that the Commissioner take disciplinary action against the Respondent.

Dated: August 28, 2006.

s/Kathleen D. Sheehy

---

KATHLEEN D. SHEEHY  
Administrative Law Judge

Reported: Tape recorded  
(One tape)

### NOTICE

This Report is a recommendation, not a final decision. The Commissioner of Labor and Industry will make the final decision after reviewing the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendation. Under Minn. Stat. § 14.61, the Commissioner's decision shall not be made until this Report has been available to the parties to the proceeding for at least ten (10) days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact Scott Brener, Commissioner, Department of Labor and Industry, 443 Lafayette Road North, St. Paul, MN 55155, or call the Department at (651) 284-5005, to learn about the procedure for filing exceptions or presenting argument.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law. If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

---

<sup>[1]</sup> Ex. 1.

<sup>[2]</sup> Ex. 2.

<sup>[3]</sup> Testimony of David Mata.